

*Refiled 12/20/2011
B2 12/20/2011*

15. The fuel gas of claim 7, wherein the fragrance or the mixture of fragrances burns without leaving a residue upon combustion of the fuel gas.

REMARKS

Reconsideration of the subject application in view of the present amendment is respectfully requested.

By the present amendment, Claim 7 has been amended to yet more clearly define the present invention. Claims 13-14 have been added.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.

The Examiner rejected claims 7-10 and 12 under 35 U.S.C. § 103(a) as being unpatentable over CN 1206039 (CN'039).

It is respectfully submitted that the presently pending claims 7-10 and 12-14 are patentable over CN'039. Specifically, claim 7 recites a fragrance or mixture of fragrances for identifying a leak and/or a fuel gas manufacturer.

No such fragrance or mixture of fragrances is disclosed in CN'039.

The CN'039 abstract discloses an acetylene-substituting high-energy fuel gas, which is composed of dimethyl ether; less than 30% by weight of butane or butene; less than 1% of pentane; methane, ethane ethene, propane or propene as optional ingredients, and 1 to 5% by weight of an additive. The additive is disclosed to be composed of an explosion-proof smoke suppresser and an antistatic agent and it may comprise as optional components a combustion adjuvant, a co-solvent, a temperature-increasing agent, a suspending agent and a **deodorizer** as required.

However, there is no disclosure whatsoever to be taken from the abstract of the Chinese patent as to what compounds can be used as a deodorizer. In any case, this deodorizer obviously is meant to reduce or eliminate the odor of the fuel gas composition.

A deodorizer, however, is by no means apt to solve the technical problem underlying the present invention, namely the provision of a fuel gas for tools, which can be identified reliably not only in the event of leaks but also as an indication of the manufacturer, and which does not represent an annoyance to

the user. This is particularly important as different tools may require use of different fuel gases.

According to the present invention, this technical problem is solved by adding to the fuel gas based on combustible gases and the specific combination of ingredients, a fragrance or a mixture of fragrances. The fragrance will thus not provide for deodorization of the fuel gas but will provide the fuel gas with a pleasant odor, which enables the user to reliably detect the leak of the fuel gas in case it should leak from the containers, and the odor will enable the user to differentiate this fuel gas from other fuel gases.

Under MPEP § 2143 *prima facie* case of obviousness require that three basic criteria be met.

First, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or

references when combined) must teach or suggest all of the claim limitation.

It is respectfully submitted that at least third criterium of *prima facie* obviousness has not been established.

Since the deodorant disclosed in the prior art document cited will not allow the provision of such a fuel gas composition and, thus, would lead the skilled person in another direction, the subject-matter of claim 7 would not be obvious to one of ordinary skill in the art.

Furthermore, the specific mixture covered by claim 7 provides for excellent fuel properties necessary for the use of the fuel gas composition in tools operated by internal combustion engines, especially for setting devices for fastening elements, which is normally done at construction sites in the open, where lower temperatures may be encountered. The specific combination of fuel gas components has shown to be superior to conventional fuel gases, such as those disclosed in the prior art, when used at lower temperatures. This in combination with the additional component of the fragrance or fragrance mixture would be unobvious.

In view of the above, it is respectfully submitted that CN'039 does not make obvious the present inventions, as defined in Claim 7, and the present invention is patentable over CN'039.

Claims 7-10 and 12-14 depend on Claim 7 and are allowable for the same reasons Claim 7 is allowable and further because of specific features recited therein which, when taken alone and/or in combination with features recited in Claim 7 are not disclosed or suggested in the prior art.

REQUEST

If the Examiner maintains the rejection of the claims over CN'039, the Examiner is respectfully requested to furnish the undersigned with the translation of the entire Patent No. 1206039 in accordance with the decision of the Board of Patent Appeals and Interferences in *Ex Parte Gavin*.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects, in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully Submitted,
Alexander Zinchuk
/ Alexander Zinchuk /

Reg. No. 30,541
David Toren
Reg. No. 19,468

Dated: March 12, 2003
Sidley Austin Brown & Wood LLP
787 Seventh Avenue
New York, N.Y. 10019
Tel.: (212) 839-7365

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail and addressed to: Commissioner for Patents, Washington, DC 20231 on March 12, 2003.

Alexander Zinchuk

DT-4809



U.S. serial No. 09/903,896

Version with Markings Showing the Changes Made

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Ulrich Rosenbaum

SERIAL NO. : 09/903,896

FILED : July 12, 2001

FOR : Fuel Gas for Tools Operated by Internal Combustion

EXAMINER : Cephia D. Toomer GROUP: 2006

Commissioner for Patents
Washington, D.C. 20231

AMENDMENTS

In the Claims:

Cancel Claims 1-6 and 11.

Amend Claim 7 as follows:

7. A fuel gas for tools operated by internal combustion, comprising a mixture, containing (A) 40 to 70 percent by weight of dimethyl ether, dinitrogen monoxide and/or nitromethane, (B) 8 to 20 percent by weight of propylene, methylacetylene, propane and/or propadiene, (C) 20 to 45 percent by weight of isobutane and/or n-butane, as

combustible gases and (D) a fragrance or mixture of fragrances for identifying a leak and/or a fuel gas manufacturer.

7. [The fuel gas of claim 1, wherein it comprises a mixture,] A fuel gas for tools operated by internal combustion, containing (A) 40 to 70 percent by weight of

SEARCHED
INDEXED
MAILED
TO 1700 MAIL ROOM